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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,027

09/04/2003

Barry Byron

33535/US

8490

7590

06/04/2004

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EXAMINER

DESAI, HEMANT

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/656,027

Applicant(s)

BYRON ET AL.

Examiner

Hemant M Desai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,2, 4, 8, 12, 13, 15 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Amundson (D467802).

Amundson discloses a sealing apparatus for sealing bag, comprising an elongated sealing member, and an elongated receiver portion having at least one engagement aperture to receive the sealing member, the receiver portion having an opening extending along a length of the receiver portion and having lugs that project generally outwardly from the receiver portion proximate to the opening (see figs. 1-7), which meets all the claimed limitations

Regarding claims 2 and 13, the opening includes ridges (see figs. 6-7) that extend along the length of the receiver, and wherein the lugs extend outwardly and upwardly from the ridges.

Regarding claims 4 and 15, wherein the elongated sealing member has a circular cross-section (see figs. 6-7) and the engagement aperture of the receiver portion has an

approximately circular cross-sectional shape (see figs. 6-7) that is configured to receive the sealing member.

Regarding claims 8 and 19, the coupling member is flexible that couples the sealing portion to the receiver portion (see figs. 1-7).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (D264689).

Miller discloses a method for sealing a bag (see fig. 1) using an apparatus having an elongated sealing member and an elongated receiver portion having at least one engagement aperture configured to receive the sealing member (see figs. 5-7), the method comprising positioning a portion of a resealable bag (fig. 1) proximate to the engagement aperture, positioning the sealing member proximate to the portion of the resealable bag and the engagement aperture, and pressing the sealing member into the engagement aperture of the receiver portion with the portion of the resealable bag interposed between the sealing member and the receiver portion (see figs. 5-7), which meets all the claimed limitations.

Regarding claim 21, positioning a portion of a resealable bag proximate to the engagement aperture further comprises positioning an opening portion of the bag proximate to the engagement aperture (see fig. 1).

Regarding claim 22, pressing the sealing member into the engagement aperture of the receiver portion further comprises closing the resealable bag to form a hermetic seal therein (see figs. 5-7).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amundson in view of Faulls, Jr. (3141221).

Amundson, as mentioned above, discloses all the claimed limitations, except for lugs extended downwardly and are coupled to the receiver portion at respective locations that are spaced apart. However, Faulls, Jr. teaches a bag sealing apparatus wherein lugs (14a, 15a, figs. 2- 4) extended downwardly and are coupled to the receiver portion (13-15, figs. 2-4) at respective locations that are spaced apart to reinforce the structure (see col. 1, lines 65-68). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the lugs extended downwardly and are coupled to the receiver portion at respective locations that are spaced apart as taught by Faulls, Jr. in the bag sealing apparatus of Amundson to reinforce the structure.

7. Claims 5, 9-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amundson in view of U.S. Application No. 10/223647.

Amundson, as mentioned above, discloses all the claimed limitations, except for a handle. However, U.S. Application No. 10/223647 teaches a handle (16, figs. 1-3) to facilitate holding and engaging rod portion (sealing portion) into the clamp (receiver) (see page 1, paragraph 3, lines 9-11). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the handle as taught by U.S. Application No. 10/223647 in the bag sealing apparatus of Amundson to facilitate holding and engaging rod portion (sealing portion) into the clamp (receiver).

Regarding claims 9-11, U.S. Application No. 10/223647 teaches that the clamp and receiver are made of materials selected from the group consisting of polymeric materials, plastic materials and metallic materials (see page 1, paragraph 11, lines 1-6). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the clamp and receiver are made of materials selected from the group consisting of polymeric materials, plastic materials and metallic materials as taught by U.S. Application No. 10/223647 in the bag sealing apparatus of Amundson.

8. Claims 6-7, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Amundson (D467802) in view of Lockridge (3828696).

Amundson, as mentioned above, discloses all the claimed limitations, except for a lanyard. However, Lockridge teaches a lanyard to facilitate retrieval and prevent loss of pencil and/or flashlight (see col. 3, lines 50-54). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having

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provided lanyard as taught by Lockridge in the bag sealing apparatus of Amundson to facilitate retrieval and prevent loss of receiver portion relative to the sealing portion.

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M Desai whose telephone number is (703) 308-5830. The examiner can normally be reached on 7:00 AM-5:30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hemant M. Desai*  
Hemant M Desai  
Examiner  
Art Unit 3721

HMD